

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

GABRIEL GIGENA, *et al.*,

Plaintiffs,

v.

STEPHEN B. RYE, *et al.*,

Defendants.

Case No. 3:23-cv-00552-MMD-CLB

ORDER

*Pro se* Plaintiffs Gabriel Gigena and Trevor Allen Oranday bring a civil rights complaint (ECF No. 1 (“Complaint”)) under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin (ECF No. 7), recommending that the Court dismiss the Complaint with leave to amend as to Gigena, dismiss the Complaint without prejudice and without leave to amend as to Oranday, and grant Gigena’s application to proceed *in forma pauperis* (“IFP”) (ECF No. 2).<sup>1</sup> Plaintiffs had until November 27, 2023 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R in full.

Because there is no objection, the Court need not conduct *de novo* review and is satisfied Judge Baldwin did not clearly err. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original). Here, Judge Baldwin recommends dismissing this action as to Oranday because a *pro se* party cannot represent another *pro se* party and this action was clearly initiated by non-attorney Gigena who filed the IFP application and signed the Complaint. (ECF No. 7 at 4.) Judge Baldwin

---

<sup>1</sup>Oranday did not file an IFP application.

1 also recommends dismissing the Complaint with leave to amend as to Gigena because  
2 the Complaint does not provide sufficient information for the Court to identify the factual  
3 or legal bases for Gigena's claims. (*Id.* at 4-5.) The Court agrees with Judge Baldwin.  
4 Having reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

5 To be clear, this means that Gigena may file a first amended complaint. If Gigena  
6 chooses to file an amended complaint, he is advised that an amended complaint replaces  
7 the original complaint, so the amended complaint must be a complete pleading. This  
8 means that the amended complaint must contain all facts and claims and identify all  
9 defendants that he intends to sue. Gigena must file the amended complaint within 30  
10 days of the date of this order. Failure to do so will result in the dismissal of this case.


11 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF  
12 No. 7) is accepted and adopted in full.

13 It is further ordered that Gigena's application to proceed *in forma pauperis* (ECF  
14 No. 2) is granted.

15 It is further ordered that the Complaint (ECF No. 1) is: (1) dismissed with leave to  
16 amend as to Gigena; and (2) dismissed without prejudice and without leave to amend as  
17 to Oranday.

18 It is further ordered that if Gigena chooses to file an amended complaint curing the  
19 deficiencies identified in this order, Gigena must file the amended complaint within 30  
20 days of the date of this order. Failure to do so will result in the dismissal of this action for  
21 failure to state a claim.

22 DATED THIS 1<sup>st</sup> Day of December 2023.

23  
24   
25 MIRANDA M. DU  
26 CHIEF UNITED STATES DISTRICT JUDGE  
27  
28